

REMARKS

Claims 1-6 and 9-28 are pending in this application. By this Amendment, claims 1 and 16 are amended.

Applicant gratefully acknowledges the Office Action's indication that claims 6 and 9-12 are allowed.*

Applicant appreciates the courtesies shown to Applicants' representative by Examiner Turner during the March 12, 2003 personal interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

I. The Claims Define Patentable Subject Matter

The Office Action rejects claims 1-5 and 13-28 under 35 U.S.C. §103(a) over WO 99/28790 to Loopstra et al. (hereinafter "Loopstra") in view of U.S. Patent No. 5,117,254 to Kawashima et al. (hereinafter "Kawashima"); and claims 13-15 and 28 under 35 U.S.C. §103(a) over Loopstra. These rejections are respectfully traversed.

Loopstra does not teach, disclose or suggest "a reference plate on the substrate stage; ... wherein the substrate stage is positioned at a predetermined position while the first sensor measures the position of said reference plate and while the second sensor detects the distance, so that the measurement result of the first sensor and the detection result of the second sensor are related with each other," as recited in claim 1 and as similarly recited in claim 16.

Loopstra merely discloses a focus detector 40-46.

Kawashima does not make up for the deficiencies of Loopstra. Kawashima merely discloses a reference plate 17.

* Claims 14 and 15 should be included with these allowed claims as explained below.

Regarding dependent claims 13-15 and 28, Applicant respectfully submits that these claims are patentable for at least the reasons that their corresponding independent claims are patentable. Applicant respectfully submits that the Office Action's assertion that "the structure of the apparatus claim from which each method claim depends does not further limit and [sic] method claim" is legally incorrect. These claims are directed to a "method of using" a device (the device itself being patentable). Such claims are encouraged (particularly in dependent form) by the Patent Office. See MPEP 821.04 (particularly the second paragraph of this MPEP section).

For at least these reasons, it is respectfully submitted that claims 1 and 16 are patentable over the applied references. The dependent claims are likewise patentable over the applied references for at least the reasons discussed above, as well as for the additional features they recite. Applicant respectfully requests that the rejections under 35 U.S.C. §103 be withdrawn.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-6 and 9-28 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Petition for Extension of Time

Date: August 22, 2003

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